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*Attorney for Defendant National Union Fire
Insurance Company of Pittsburgh, Pa.*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TIG INSURANCE COMPANY

Plaintiff

v.

THE FAIRCHILD CORPORATION, et al

Defendants

**CASE NO. 1:07-cv-08250-JGK
ECF case (JGK)**

**CROSS-MOTION TO DISMISS OR
ALTERNATIVELY STAY THIS
ACTION BY DEFENDANT NATIONAL
UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA.**

PLEASE TAKE NOTICE, that upon the Declaration of Michael C. Modansky sworn to on the 7th day of January 2008 and accompanying Memorandum of Law, Defendant National Union Fire Insurance Company of Pittsburgh Pa. ("National Union") will move before this Court, before the Honorable John G. Koehl, at a date and time to be determined by the Court for an Order dismissing or in the alternative staying, this action under the doctrine of abstention and granting such other and further relief as the Court may deem just and proper.

National Union requests oral argument on this motion pursuant to paragraph 2(E) of the Individual Practices of Judge Koehl.

Dated: New York, New York
January 7, 2008

BIVONA & COHEN P.C.


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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

TIG INSURANCE COMPANY Plaintiff v. THE FAIRCHILD CORPORATION, et al Defendants	CASE NO. 1:07-cv-08250-JGK ECF case (JGK) <u>DECLARATION OF</u> <u>MICHAEL C. MODANSKY</u>
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I, Michael C. Modansky hereby declares as follows:

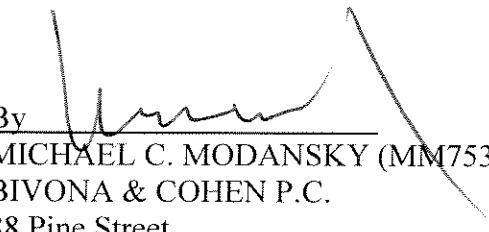
1. I have personal knowledge of and am competent to testify to the matters set forth in this Declaration.
2. I am a member of the law firm of Bivona & Cohen P.C., attorneys for Defendant National Union Fire Insurance Company of Pittsburgh Pa. ("National Union").
3. I make this Declaration in support of National Union's Cross Motion to dismiss or in the alternative stay this litigation.
4. I have reviewed the statements and exhibits 1 – 6 contained in Declaration of Peter E. Baugher submitted on behalf of co-defendant Fairchild Corporation ("Fairchild") with respect to its motion to dismiss or alternatively stay this litigation and have conferred with National Union's counsel in the Ohio action. Accordingly, I can state on behalf of National Union that those exhibits are true and accurate copies.

5. National Union refers to and incorporates those exhibits in this cross motion as if they were contained in this Declaration.

6. National Union has made this Cross Motion so as to make clear that both defendants believe that the relief sought in the Fairchild Motion should be applicable to the case in total, not just applicable to Fairchild.

7. Pursuant to 28 U.S.C. § 1756, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
January 7, 2008

By 
MICHAEL C. MODANSKY (MM7537).
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